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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/239,878	01/29/1999	MARK L. BOYER	07091-006001	6652

7590 07/19/2004
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EXAMINER

GLESSNER, BRIAN E

ART UNIT PAPER NUMBER

3635

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/239,878

Applicant(s)

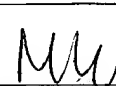
BOYER ET AL.

Examiner

Brian E. Glessner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33,34,36 and 37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33,34,36 and 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The following office action is in response to the Appeal Brief filed on May 10, 2004.

Upon further review, the examiner is hereby withdrawing the finality of the previous office action and issuing a new non-final office action. Claims 33, 34, 36 and 37 are pending in the application. Claims 33, 34, 36 and 37 are rejected as set forth below.

Claim Objections

1. Claims 33 and 36 are objected to because of the following informalities: Claims 33 and 36 claim a door and doorframe mountable or positionable in the housing body. However, the claims are claiming an apparatus, i.e. a finished product. Therefore, since the applicant is claiming the finished product, the claims should state that the door and door frame are positioned in the housing body. The applicant is not claiming a system. Thus, as stated above, the claims should claim the apparatus in a finished condition. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCaul, III et al. (3,762,115) in view of Hsu (5,210,985).

4. In regard to claims 33 and 36, McCaul discloses an apparatus comprising a seamless housing body (figures 10 and 11, column 3, lines 49-54) unitarily formed as a single piece, said seamless housing body having portions defining a front wall having a door opening therethrough

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(figure 10), a rear wall, two side walls, a roof, and a floor (figure 11), a door frame positioned in the door opening, and a door mounted in the door frame, whereby said vault walls, roof, and floor are fireproof and burglary proof because they are made of concrete. McCaul does not specifically disclose that said door and is fire resistant and burglary proof. Hsu teaches that it is known to place a fire resistant/burglary proof door and frame on a bathroom module. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Hsu's teaching into McCaul's invention, because the door and frame taught by Hsu will make McCaul's module a safe place to hide from a fire or a burglar. The examiner would also like to point out that McCaul and Hsu do not specifically disclose that their structures are vaults. However, this limitation is in the preamble of the claim. Therefore, the vault limitation has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). Thus, since the term vault does not impart any structural features that would separate the applicant's structure from McCaul's structure, it is not being accorded any patentable weight.

5. Claims 34 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCaul, III et al. (3,762,115) in view of Hsu (5,210,985) and further in view of Wokas (3,162,863).

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In regard to claims 34 and 37, McCaul in view of Hsu disclose the basic claimed invention except for specifically disclosing the use of a plurality of hooks integrally formed into the housing body for facilitating hoisting the seamless housing body. Wokas teaches that it is known to place lifting means 14 into a housing body of a bathroom module. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Wokas' teaching into McCaul in view of Hsu's invention, because the lifting means will allow a crane or other lifting device to easily lift and place McCaul's module. By using the lifting means taught by Wokas, one would not have to use a strap or other cumbersome device to pick up and place McCaul's modules.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Massey, Davis, Snodgrass, Silen and Riley.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Glessner whose telephone number is 703-305-0031. The examiner can normally be reached on Monday-Friday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brian E. Glessner
Primary Examiner
Art Unit 3635

B.G.
July 12, 2004